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I.C.C. DOCKET NO.

01-0623

Exhibit No.

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Witness

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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matters of	)	
	)	
Deployment of Wireline Services Offering	)	CC Docket No. 98-147
Advanced Telecommunications Capability	)	
	)	
and	)	
	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions of the	)	
Telecommunications Act of 1996	)	

**ORDER ON RECONSIDERATION AND SECOND FURTHER  
NOTICE OF PROPOSED RULEMAKING IN CC DOCKET NO. 98-147  
AND FIFTH FURTHER NOTICE OF PROPOSED  
RULEMAKING IN CC DOCKET NO. 96-98**

Adopted: August 9, 2000

Released: August 10, 2000

Comment Date: September 18, 2000

Reply Comment Date: October 10, 2000

By the Commission:

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29. We also continue to believe, based on the record before us, that intervals significantly longer than 90 days, such as the 180 calendar day interval Sprint suggests for previously unconditioned space,<sup>75</sup> would not generally result in competitive LECs' receiving access to space within incumbent LEC premises within reasonable time frames. Instead, we believe, based on this record, that intervals significantly longer than 90 days generally will impede competitive LECs' ability to compete effectively,<sup>76</sup> although we recognize that in specific circumstances a significantly longer provisioning interval may be warranted based on detailed information presented to and evaluated by a state commission. We therefore require that, except to the extent a state sets its own collocation provisioning standard or an incumbent LEC and requesting carrier have an interconnection agreement that sets an alternative standard, an incumbent LEC must complete physical collocation provisioning within 90 calendar days after receiving an acceptable collocation application. We recognize, however, that a state may establish different provisioning intervals, either shorter or longer than the national default standard, based on the facts before that state, which may differ from our record here.

30. To complete provisioning of a collocation arrangement, an incumbent LEC must finish construction in accordance with the requesting carrier's application and turn functional space over to the requesting carrier.<sup>77</sup>

31. Failure to meet either the deadline for determining whether a collocation application is acceptable or the specified provisioning deadline, where the state does not set a different deadline or the parties have not mutually consented to alternative standards, could expose an incumbent LEC to possible action at both the federal and state level. For instance, we will consider a Bell Operating Company's (BOC's) collocation provisioning performance as part of our review of any application to provide in-region, interLATA service pursuant to section 271 of the Communications Act.<sup>78</sup> Failure to meet collocation deadlines after obtaining section 271 approval would expose a BOC to possible enforcement action under section 271(d)(6)(A) of the Act, which authorizes the Commission to impose monetary penalties, or to suspend or revoke interLATA approval after notice and an opportunity for hearing.<sup>79</sup> Similarly, the Texas

(Continued from previous page)

release date of the *Advanced Services First Report and Order*, that they had to make cageless, adjacent, and shared physical collocation available to competitors. See, e.g., *Advanced Services First Report and Order*, 14 FCC Rcd at 4783-84, ¶ 40; *Local Competition First Report and Order*, 11 FCC Rcd at 15576, ¶ 152.

<sup>75</sup> Sprint Petition at 9-10.

<sup>76</sup> *Advanced Services First Report and Order*, 14 FCC Rcd at 4790-91, ¶ 54; see, e.g., *Rhythms Oct. 19, 1999 Letter*, *supra* note 7, at 7; *Allegiance Dec. 10, 1999 Letter*, *supra* note 32, at 1; *@link Dec. 7, 1999 Letter*, *supra* note 7, at 1.

<sup>77</sup> *Allegiance Dec. 10, 1999 Letter*, *supra* note 32, at 3; Letter from Andrew D. Lipman, *et al.*, Counsel for DSLnet, to Magalie Roman Salas, Secretary, FCC, at 4 (filed Dec. 3, 1999) (*DSLnet Dec. 3, 1999 Letter*).

<sup>78</sup> See *Application of Bell Atlantic New York for Authorization under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, FCC 99-400, ¶¶ 73-75 (rel. Dec. 22, 1999) (*Bell Atlantic New York Order*).

<sup>79</sup> 47 U.S.C. § 271(d)(6)(A); see *Bell Atlantic New York Order*, *supra* note 78, at ¶ 451. We emphasize that, where a state does not set its own provisioning standard, 90 calendar days defines the outer limit of incumbent LEC (continued....)